

Background

- The management of asbestos in Queensland occurs under several pieces of legislation. Powers of investigation available to the Litter and Illegal Dumping Unit (LIDU) of EHP are contained in the *Waste Reduction and Recycling Act 2011*.
- Other relevant legislation with regard to the management of asbestos includes the *Public Health Act 2005*, the *Work Health and Safety Act 2011*, and the *Environmental Protection Act 1994*.
- This legislation is administered by the relevant level of government depending on location, activity in question (eg building site vs public land) or land tenure. For example, local government administers provisions under the Public Health Act, the Environmental Protection Act, and can accept delegated powers under the Waste Reduction and Recycling Act.
- The Public Health Act governs activities carried out in non-workplace settings and for this reason many reports to EHP of alleged "illegal dumping" relating to asbestos are referred to local government for management.
- As an example, while cases such as the inappropriate storage of asbestos on site may be reported to the department as "illegal dumping", further investigation may identify that the activity breaches other legislation, not the Waste Reduction and Recycling Act and the report will be referred to the relevant agency for management.
- Instances referred from reports received by EHP may therefore be investigated as a potential range of offences under the various pieces of legislation mentioned above rather than as "illegal dumping".

Response

- Given the process described above, of 42 instances of alleged illegal dumping referred to EHP in SEQ since 1 January 2012, only one instance proceeded to investigation by LIDU.
- The investigation report in relation to this case is attached.
- Note that a number of pieces of information have been obscured in the document. This is because, under RTI and Privacy legislation, EHP is not able to release any document that contains identifying information where matters have not progressed to court. Additionally, the release of information that could impair or prejudice investigation processes may not be released.
- The table below contains summary information about all referrals of potential 'illegal dumping' referred to LIDU since 1 January 2012, including the case detailed in the attached investigation report.

Table 1: Instances of potential 'illegal dumping' referred to LIDU 1 January 2012 – 18 September 2014

Outcome of referral	SEQ	Non SEQ	Comments
Clean up – No compliance action	1	1	Identified clean up by property owners/ managers.
Enquiry Resolved / Information Provided	12	14	Includes cases where, for example, the department has provided advice to members of the community in relation to agencies relevant in the management of asbestos.
Compliance Notice & Penalty Infringement Notice (PIN) sent	1		
Warning letter issued in relation to illegal dumping (no dumping of asbestos occurred)	1		
Referred – Environmental Services (EHP)	1	4	Note cases that are referred to other entities may not be investigated as 'illegal dumping' but under other legislation as outlined above. Referred – Other* includes other state government departments including Natural Resources and Mines, Work Place Health and Safety Queensland, State Development, Infrastructure and Planning.
Referred to local government	19	6	
Referred – Other*	5	1	
Referred – Queensland Parks and Wildlife Service	2		
TOTAL	42	26	

Assessment Report

State Penalties Enforcement Act 1999 Regime

Penalty Infringement Notice

This Assessment Report will assist officers to record information in supporting a decision to issue a Penalty Infringement Notice (PIN) in a circumstance under the State Penalties Enforcement Act 1999 regime. This includes the Environmental Protection Act 1994, Vegetation Management Act 1999, Nature Conservation Act 1992, Forestry Act 1959, Recreational Areas Management Act 2006, Integrated Planning Act 1997, Sustainable Planning Act 2009, Land Act 1994 and the Land Protection (Pest and Stock Route Management) Act 2002, Marine Parks Act 2004 and the Waste Recycling and Reduction Act 2011.

Note: In cases where the issue of the PIN must be made by a specific delegate or decision maker (under an internal policy or procedure); or where circumstances are unclear due to evidentiary, logistical, or public interest matters, it is recommended that an Assessment Report be produced for deliberation, consultation or determination by an appropriate senior DERM officer. For information on writing and management of PIN's please refer to the PIN Manual at <http://steps.steps/reflaunch.cfm?nw=true&ref=2291>

1. Identifying details relating to the PIN

Reference Details	FPQ#4
ECOTrack Number	CR54771
Licence/Permit Number	
File Number	TBA - CBL/085365
Name of alleged offender	Sch4 - Personal information
Date of Birth	Sch4 - Personal information
Address	Sch4 - Personal information
ACN/ABN	N/A
Contact details	Sch4 - Personal information

2. Background details of Incident

Please outline any historical information relevant to this incident. This information may assist with the reasoning for the decision and may be essential should the matter be referred to the Magistrates Court.

Date & Time	Between 4/5/12 and 9/5/12
Day of the week	Friday - Wednesday
Location	Unknown Forestry road. Sch4 - Personal information
Vehicle/Vessel Details	Unknown (assumed to be personal) Sch4 - Personal information

Other Information

10/5/12 (1)(b) Confidential source of information informs EHP officers of asbestos which has recently been dumped. EHP officers Ross Blake and Stuart Weavell investigate, taking evidence.

14/5/12 contacted sch4 - Personal information regarding the stamp on the plastic which was used to wrap the asbestos.

15/5/2014 - Personal information contacted EHP to inform that after some investigation, the owner of the asbestos was discovered. The owner had provided a name of the alleged offender as well as a mobile number.

21/5/12 – spoke to [redacted] over the phone to gather initial information and to assess how far the case could be progressed.

sch3(10)(1)(f) Prejudice to effectiveness of method of investigating etc contravention of the law

20/6/12 – Witness statement taken from sch4 - Personal information

sch3(10)(1)(f) Prejudice to effectiveness of method of investigating etc contravention of the law

Images:

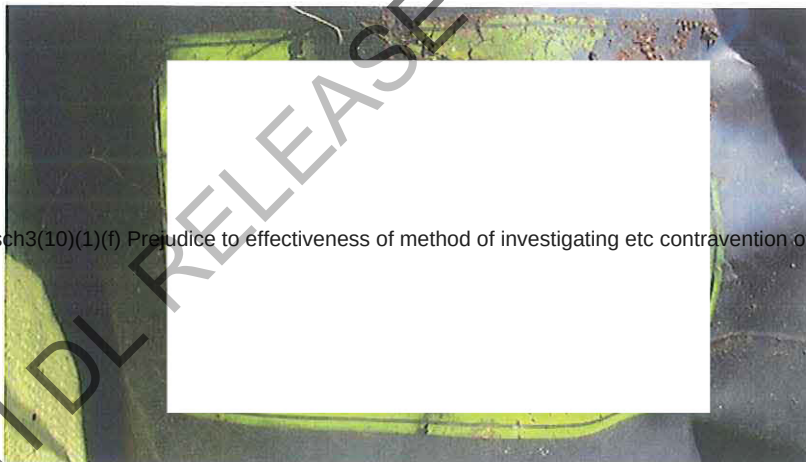
Image 1 – Asbestos wrapped in black plastic, inside TUFFbag



Image 2 – Open part of plastic showing asbestos with blue paint



Image 3 – Order stamp on black plastic



3. Alleged Offence Details

Please outline what offences are alleged to have been committed. Details include the legislation, section number, penalty units and limitation periods. Note: If there are more than three separate PIN-able offences being considered the matters should form the basis of a complaint and summons and be heard by a Magistrate. PIN offence codes are found at: http://insite2.dnr.qld.gov.au/compliance_coordination/pins.html#offence_codes

No.	Section	Legislation	Penalty Units	Statue Limitation
1	104(1)(a) Illegally dump waste less than 2500 L - individual	Waste Reduction and Recycling Act 2011	16	12 Months

4. Elements and supporting evidence

Please outline the elements of each of the offences listed above. Detail what evidence is available to satisfy each and every element of the offence(s), the source, how it is/was obtained and when it will/was obtained.

Offence No.	Elements	Type of Evidence	Source of Evidence	How evidence obtained
1.	Date period of the offence. From when the items were received to when they were discovered	Documentary	Witness statement from the owner of the asbestos.	Statement at witness's house.
2.	Place of dumping offence – public place	Documentary	LIDU officers took photographs and GPS coordinates of dumping	In the field by LIDU officers
3.	Illegally dumped asbestos – volume greater than 200L. approximately 1.5m x 1.2m x 0.5m (volume approximately 0.9m ³ or 900l)	Documentary	LIDU officers measured the pile with a measuring tape, however due to the non-uniform nature and slope the measurements are approximate.	LIDU officers in the field
4.	Identity of person	Verbal/Documentary	Witness stated the person's name and provided his business flyer	Phone call to witness when the plastic was tracked to him and a statement at witness's house.
	Identity of person	Documentary	CI&I (QVAS, SMIS, QT) and LIDU (Smartmaps)	CI&I officers on request, LIDU officers.

5. Other Enforcement Options

Please detail what other enforcement options have been considered for this matter.

Have other enforcement options been considered?	YES
If yes, what are they and the reasons for using/not using them?	Compliance Notice – will be provided with PIN subject to approval as asbestos is still located in FPQ.
If no, please advise why no other options have been considered?	N/A

6. Recommendation

The officer is required to make a recommendation in relation to the matter under investigation

Recommendation:

That a PIN be issued to the alleged offender due to the waste (more than 200l and less than 2500l) being dumped illegally, being linked to his "business" and enough evidence to connect him to the offence. Also, a Compliance Notice to be issued as the asbestos is still in place. Evidence of correct disposal to be provided. And discussions with Environmental Services regarding the possible unlicensed activity being undertaken (Regulated Waste transport).

7. Endorsement

The recommending officer and supervisor are required to sign and date below.

Recommending Officer	Supervisory Review
Signature: sch4 - Personal information	Signature: sch4 - Personal information
Print Name: Ross Blake	Print Name: Sandra Avendano
Position: A/Senior Project Officer	Position: Manager, Levy Compliance
Date: 24/7/12	Date: 27/07/12

8. Approval

The appropriate manager or supervisor is required to make a decision and sign a w.

Decision for recommendation	<INSERT detail> sch4 - Personal information	Not Approve>
Reasons for Decision		
Signature sch4 - Personal information	Print Name: Scott Robinson	
Position: Director, Business Integration (Levy)	Date: 27/7/12	





sch4 - Personal information

sch4 - Personal information



sch 4 - Personal information

sch 4 - Personal information

RTI DL RELEASE - EHP



RTI DL RELEASE - EHP

sch4 - Personal information

sch4 - Personal information

sch4 - Personal information



sch4 - Personal information

sch4 - Personal information

sch4 - Personal information



RTI DL RELEASE - EHP

sch4 - Personal information

sch4 - Personal information

sch4 - Personal information









Page 17 of 34
D3414-0613

Relea









RTI/DL RELEASE - EHP

02/09/2011 09:26





15/04/2013 11:14



15/04/2013 11:22



14-083 DL Documents 26 of 34

19/03/2014 10:33

Released





RTI/DL RELEASE - EHP

SHIRE COUNCIL
S. NACRO CLOTHING
RE AS A COMMUNITY SERVICE

NO ITEMS TO BE
LEFT OUTSIDE OF
DONATION BANKS

NO ITEMS TO BE
LEFT OUTSIDE OF
DONATION BANKS

PULL
"Thankyou"

Lifeline

Clothing Donation Bank

- 24 hr telephone counselling 03 11 14
- Individual Counselling
- Support for children & families

NACRO

PULL
"Thankyou"

Lifeline

Clothing Donation Bank

- 24 hr telephone counselling 03 11 14
- Individual Counselling
- Support for children & families

PULL
"Thankyou"

Lifeline

Clothing Donation Bank

- 24 hr telephone counselling 03 11 14
- Individual Counselling
- Support for children & families

NACRO

14-083

DL Documents

Page 29 of 34

Release









Images	Location	File A Page Number
19-09-2011 12-28-54 PM	Private Land - Brisbane	16
42	Caboolture River, Moreton Bay Regional Council	17
DERM_110830_AC_0072	National Park - Brisbane	18
DERM_110830_AC_0129	National Park - Brisbane	19
DERM_110830_AC_0317	National Park - Brisbane	20
IMG_1013	Private Land - Brisbane	21
IMG_1184 - KEEPER	State Land - Moreton Bay Regional Council	22
IMG_1741	State Land - Brisbane	23
IMG_1744	State Land - Brisbane	24
IMG_1745	State Land - Brisbane	25
IMG_1998	Private Land – Gold Coast	26
IMG_5643	State Land – Sunshine Coast Regional Council	27
IMG_5647	State Land – Sunshine Coast Regional Council	28
Lifeline Charity Bin	Private Land – Redlands City Council	29
P1080043	Private Land – Ipswich City Council	30
Illegal dumping 2	State Land – Sunshine Coast Regional Council	32
Illegal Dumping 1	State Land – Moreton Bay Regional	31
Illegal Dumping 3	State Land – Moreton Bay Regional Council	33